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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/595,133	06/16/2000	Denis L. Babin	00,474	1328

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EXAMINER

HAMILTON, ISAAC N

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 08/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/595,133

Applicant(s)

BABIN, DENIS L.

Examiner

Isaac N Hamilton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 and 21-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 21-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 05/24/2004.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-14 and 21-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benenati (5,227,179). Benenati discloses manufacturing a plurality of manifold parts M in column 6, lines 16-18; heating elements 17; milled grooves 8; flow channels 9; inventory of partially manufactured manifold plate parts in column 2, lines 26-30; customized specifications in column 6, lines 18-21; boring out holes 22 in column 7, lines 24-30; nozzles 2; plugs 20; bored out slots for alignment pins 25B are implied in figure 3; aligning plug channels with flow channels of the manifold plate and melt channels of the nozzles shown in the assembly of figures 8 and 9; manifold lengths in column 6, lines 18-21; milling, grinding, drilling, boring, inserting and attaching are all implied actions in a manufacturing process; first phase in figure 2a; second phase in figure in figure 2; H-shape in figures 2 and 2A. Benenati discloses the claimed invention except for a unitary manifold plate. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a unitary manifold plate, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893). It would have been obvious to provide a unitary manifold plate in Benenati as taught by *Howard v. Detroit Stove Works* in order to reduce assembly costs. The position that

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integrating several manifold parts into a unitary manifold plate is further supported by *In re Larson*, which states "that the use of a one piece construction instead of the structure disclosed in [the prior art] would be merely a matter of obvious engineering choice." See MPEP 2144.04(V)(B).

Response to Arguments

Applicant's arguments with respect to claim 1-14 and 21-42 have been considered but are moot in view of the new ground(s) of rejection.

Applicant asserts that the Examiner erred in making the February 24, 2004 Office action "final". Moreover, the applicant asserts that the Examiner did not follow the MPEP section 609(III)(B)(2)(a)(ii), which states that a reference cited in an IDS filed after a first Office action on the merits may be used in a new grounds of rejection, and that new grounds of rejection may be made final. Additionally, applicant asserts that the IDS containing Benenati (5,227,179) was filed together with an RCE before a first Office action on the merits. However, it is believed that applicant has erred in making such assertions because the RCE was filed June 2, 2003, a first Office action on the merits was mailed August 27, 2003, and the IDS, which contains the Benenati '179 reference, was received at the USPTO on December 1, 2003.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isaac Hamilton whose telephone number is 703-305-4949. The examiner can normally be reached on Monday thru Friday between 8am and 5pm. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 703-308-1082.

In lieu of mailing, it is encouraged that all formal responses be faxed to 703-872-9306. Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is 703-308-1148.

IAH
IH

July 29, 2004


BOYER ASHLEY
PRIMARY EXAMINER